

### REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 2, 3, and 5-32 are pending in this application, Claims 9-24 having been previously withdrawn; Claims 2, 25, 27, and 29 having been currently amended; and Claim 4 having been canceled without prejudice or disclaimer. Support for amended Claims 2, 25, 27, and 29 can be found, for example, in the original claims, drawings, and specification as originally filed.<sup>1</sup> No new matter has been added.

In the outstanding Office Action, Claims 2-8 and 25-32 were rejected under 35 U.S.C. § 103(a) as unpatentable over Diaz (U.S. Patent No. 5,814,065) in view of Modesitt et al. (U.S. Patent No. 7,001,400; hereinafter “Modesitt”).

In regard to 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of the rejection and traverse the rejection as discussed next.

Independent Claim 2 is directed to an organism tissue suturing apparatus including, *inter alia*:

...a body part, with a predetermined length, having a rotary portion and can be inserted into said tissue of said organism from said hole;

two hollow needle members accommodated in a portion, inside said body part, rearward from said rotary portion;

a needle member operation portion for advancing said two hollow needle members toward said rotary portion from a side surface of said body part; and

two openings disposed at a rear-most portion of said body part and communicating with lumens of said two hollow needle members,

wherein said rotary portion has two needle member receiving portions for receiving a distal end of one of said

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<sup>1</sup> See original Claim 4 and page 19, lines 1-3 of the specification.

hollow needle members and that of the other of said hollow needle members respectively pressed out of said body part, a connection duct communicating with said two needle member receiving portions, ***said rotary portion includes a thread pull-out slit extending from an upper surface thereof and communicating with said two needle member receiving portions and said connection duct, and the thread pull-out slit is oblique to a longitudinal axis of said rotary portion and is positioned so that said thread pull-out slit is not located at a front portion of said connection duct;*** and

one continuous duct for a suturing thread is formed to range from one of said two openings to the other of said openings through one of said lumens of one of said two hollow needle members, said connection duct of said rotary portion, and the other of said lumens of the other of said two hollow needle members, when said two needle member receiving portions receive said hollow needle members respectively at a same time.

Independent Claims 25, 27, and 29 recite substantially similar features as independent Claim 2. Thus, the arguments presented below with respect to independent Claim 2 are also applicable to independent Claims 25, 27, and 29.

Page 3 of the outstanding Office Action asserts that “a suturing thread portion 70 provided on said guide portion and the tip portion has a thread pull-out slit (on external surface of 36 near 38) extending from an upper surface thereof and communicating with said two needle member receiving portions and said connection duct (Figure 1).” Thus, page 3 of the outstanding Office Action appears to assert that the second needle lumen portions 38 shown in Figure 1 of Diaz are equivalent to Applicants’ “thread pull-out slit.” However, Applicants respectfully submit that Diaz fails to teach or suggest “said rotary portion includes a thread pull-out slit extending from an upper surface thereof and communicating with said two needle member receiving portions and said connection duct, and ***the thread pull-out slit is oblique to a longitudinal axis of said rotary portion and is positioned so that said thread pull-out slit is not located at a front portion of said connection duct,***” as recited in Applicants’ amended Claim 2.

Diaz describes that a tip 36 is disposed near the distal end portion 18 of an elongated member 15 and includes second needle lumen portions 38 aligned with first needle lumens 28 in a transverse plane perpendicular to the longitudinal direction L, as shown in Figure 1.<sup>2</sup> Diaz also describes that the tip 36 is spaced apart from the elongated member 15 in the longitudinal direction L to form a recess 56 between the tip 36 and the elongated member 15. The second needle lumen portions 38 of the tip 36 are substantially *U-shaped and open at their outer portions to communicate with an exterior surface 58 with the tip 36 along their entire lengths*.<sup>3</sup> However, Diaz fails to describe that the second needle lumen portions 38 extend from an *upper surface* of a rotary portion and *communicate with two needle member receiving portions*, as the second needle lumen portions 38 are formed along the side and bottom of the tip 36.

Also, Diaz does not communicate with the first needle lumens 28 as there is a gap between the second needle lumen portions 38 and the first needle lumens 28, and column 5, lines 35-46 of Diaz describes that the second needle lumen portions 38 communicate with an exterior surface 58 of the tip 36. Lastly, in Diaz, the second needle lumen portions 38 *are not oblique to a longitudinal axis of the rotary portion*. As clearly shown in Figure 1 of Diaz, the second needle lumen portions 38 are *parallel* to the longitudinal axis of the tip 36, and thus are not oblique to the longitudinal axis of the tip 36.

Thus, Applicants respectfully submit that amended independent Claims 2, 25, 27, and 29 (and all claims depending thereon) patentably distinguish over Diaz. Further, Applicants respectfully submit that Modesitt fails to cure any of the above-noted deficiencies of Diaz.

Accordingly, Applicants respectfully request that the rejection of Claims 2-8 and 25-32 under 35 U.S.C. § 103(a) as unpatentable over Diaz in view of Modesitt be withdrawn.

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<sup>2</sup> See column 4, lines 17-26 of Diaz.

<sup>3</sup> See column 5, lines 35-46 of Diaz.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C.  
§ 103(a) be withdrawn.

Consequently, in view of the present amendment, and in light of the above discussion,  
the pending claims as presented herewith are believed to be in condition for formal  
allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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